



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
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MEMORANDUM

TO: Competitive Local Exchange Carriers and Interested Parties

FROM: Joan Foster Evans
Hearing Officer

DATE: March 27, 2003

RE: Verizon Petition for Waiver of Certain Service Results - Request for Comments
Performance Assurance Plan
D.T.E. 03-38

CC: List of registered Competitive Local Exchange Carriers in Massachusetts
Mary Cottrell, Secretary
Paul G. Afonso, General Counsel
Michael Isenberg, Director, Telecommunications Division
Staff as Assigned

On March 18, 2003, Verizon New England Inc. d/b/a Verizon Massachusetts ("Verizon") filed with the Department of Telecommunications and Energy ("Department") a Petition for a Waiver of Certain Service Results Measured Under the Performance Assurance Plan ("PAP") for January 2003 ("Petition"). In its Petition, Verizon asks the Department to waive certain service performance results for January 2003 that would otherwise be included in the calculation of monthly bill credits due to Competitive Local Exchange Carriers ("CLECs") under provisions of the PAP. Verizon estimates that if the Petition were granted, the amount of monthly credits due to CLECs will be eliminated (the filed credits were approximately \$164,000). The Petition has been docketed at D.T.E. 03-38.

Under the PAP, Verizon is subject to financial penalties for substandard service quality. The PAP allows Verizon to file a Waiver petition seeking to have the monthly service quality results modified on three generic grounds. PAP at Section II(J) (pages 21-23), and Appendix D. The third ground, applicable here, relates to situations beyond Verizon's control that negatively affect its ability to satisfy only those measures with absolute standards. Id. The PAP states that any petition pursuant to this provision must demonstrate clearly and convincingly the extraordinary nature of the circumstances involved, the impact that the circumstances had on Verizon's service quality, why Verizon's normal reasonable preparations for difficult situations proved inadequate, and the specific days affected by the event. Id.

According to Verizon, certain systems employed by Verizon were subject to an Internet computer attack by a "worm" ("the Slammer Worm") during the weekend of January 25, 2003. Verizon states that in response to the attack, Verizon closed its wholesale interfaces in order to speed isolation and recovery from the infection, directly affecting the performance measures for OSS Interface Availability. Verizon argues that but for the Slammer Worm, Verizon would have been able to provide satisfactory service on these measures. Verizon asserts that the Slammer Worm is a waivable event beyond its control, and that the Department should allow Verizon to exclude January 25, 2003 from the calculation of the affected metrics for the January performance month.

The Department invites interested persons to file written comments on the Petition no later than the close of business, **Thursday, April 10, 2003**. Reply comments shall be filed by **Monday, April 14, 2003**. One original and (3) three copies of initial and reply comments must be filed with:

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

In addition to filing a paper copy of written comments, commenters must, if possible, file comments in electronic format by e-mail attachment to dte.efiling@state.ma.us (copy to Joan.Evans@state.ma.us). The electronic filing must specify: (1) the case caption; (2) the docket number (D.T.E. 03-38); (3) the name of the person or company submitting the filing; and (4) a brief descriptive title of document (e.g., comments). The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Text responses should be written in either Word Perfect (naming the document with a ".wpd" suffix) or in Microsoft Word, (naming the document with a ".doc" suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format, as well as Verizon's Petition, will be posted on the Department's website, <http://www.mass.gov/dpu/>.

The Petition requests that the Department issue a ruling on the Petition by April 18, 2003 in order to meet the May 1, 2003 due date for processing of January 2003 credits. In the event that the Department is unable to issue a ruling by that date, the Department requests comments on how the Department should treat the May 2003 filing. Specifically, should the Department require Verizon to (1) hold the May 2003 results pending Department ruling on the Petition; (2) file the May 2003 results assuming the Petition is not granted, with a true-up after

the Department rules; (3) file the May 2003 results assuming the Petition is granted and exclude the affected data, with a true-up after the Department rules, or (4) file the May 2003 results assuming the Petition is granted and adjust the affected data using a normalization methodology, with a true-up after the Department rules.

Finally, Verizon is directed to post a copy of this notice, as well as a copy of the Petition and supporting documents, to its wholesale web site as soon as possible. In addition, Verizon is directed to provide an electronic version of this notice to all CLECs on its tariff notification/Mass Migrations listserve, and to identify for the Department the CLECs so notified.